IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CWP No.12932 of 2004

Date of Decision: 9.11.2006

Pritam Singh .....Petitioner

Versus

State of Punjab and others .....Respondents

CORAM:- HON'BLE MR.JUSTICE J. S. KHEHAR
HON'BLE MR.JUSTICE S. D. ANAND

Present: Mr.VK Shukla, Advocate
for the petitioner.

Mr.Ashok Aggarwal, Additional AG Punjab for the respondents.

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S.D.ANAND, J.

1. Petitioner's claim for the award of Rs.50,000/-, as the ex-gratia amount, is based upon Rule 6 of the Policy Instructions (Annexure P3) issued by the Competent Authority in implementation of the recommendations of the 4th Punjab Pay Commission regarding pension and other retiral benefits. That rule is extracted hereunder for facility of reference:

"6. Ex-gratia Grant.

Ex-gratia grant admissible vide Rule 2.7 of Punjab Civil Services Rules Vol.II to members of family of an employee who dies in harness shall be paid at the rate of Rs.50,000/- on a

uniform basis. It has also been decided that the employees who, while in service are permanently disabled and rendered unfit for further service shall also be given ex-gratia grant at the rate of Rs.50,000/- on a uniform basis."

2. Respondents resist the claim aforesaid by placing reliance upon letter dated 14.9.1998 (Annexure R1) which, apart from containing instructions on certain other points qua the grant of extra-ordinary pension and awards, also provides in Rule 3 (3.1 to 3.5) indicating "rate of pension of the Government employees who are disabled due causes attributable to service."

3. We have heard learned counsel for the parties and perused the records.

4. It is beyond the pale of controversy that the petitioner, who was in employment of the respondents as a Conductor, was examined by a competent Medical Board, found to be suffering from Neuro Dis-orders and declared to be incapacitated for further service (Annexure P1). It was on account of that medical certification that he was invalidated out of service vide order dated 30.6.2000 (Annexure P2). The plea for the grant of ex-gratia amount having been declined on the administrative side, he was impelled to file Civil Writ Petition No.2263 of 2002 wherein directions were issued by this Court (vide order dated 5.2.2002) to the Competent Authority to decide the legal notice of the petitioner by granting a speaking order. In compliance therewith, the matter was considered by the Competent Authority, which rejected the claim raised by the petitioner on a finding that the benefit in the matter of ex-gratia grant was available only to the legal heirs of employees who die in harness, vide order dated 22.4.2002

(Annexure P4). That order was also challenged by the petitioner by filing Civil Writ Petition No.13117 of 2002. While quashing order dated 22.4.2002 (Annexure P4), this Court directed (vide order dated 7.4.2003 - Annexure P5) the respondents to re-consider the case of the petitioner. The fate of the claim raised by the petitioner was no different at the hands of the respondents this time as well. The petitioner's claim was rejected by the respondents vide order dated 5.6.2003 (Annexure P6). Even thereafter, the petitioner made a representation dated 18.6.2003 (Annexure P7) asking for the grant of ex-gratia payment in view of Policy (Annexure P3) and also in view of Division Bench judgment dated 24.4.2003 (Annexure P8) passed by this Court in Civil Writ Petition No.4198 of 2002. Inspite thereof, the plea of the petitioner did not find favour with the respondents and his claim, in the context, was declined vide memo No.7477/Pension dated 8.9.2003 (Annexure P9).

5. In support of the plea advocated on behalf of the petitioner, implicit reliance is placed upon (Rule 6 of the) Policy Instructions which stand extracted in para No.1 of this judgment. On the other hand, the claim is resisted on behalf of the respondents by inviting the attention of this Court to Annexure R1.

6. The plea of the petitioner deserves to be allowed. The Policy Instructions quoted in para 1 of this judgment are categorically supportive of the claim raised by the petitioner. The plea is further buttressed by a judicial pronouncement rendered by a Division Bench of this Court in Civil Writ Petition No.4198 of 2002 (Annexure P8).

7. On the other hand, reliance placed by learned counsel for the respondents upon Annexure R1 is thoroughly mis-conceived, inasmuch as

the policy instructions contained therein are relatable to pension matters and topics other than ex-gratia payment awardable to an employee who is medically incapacitated during his service tenure. The judgment rendered by a Division Bench of this Court in Civil Writ Petition No.4198 of 2002 is also fully supportive of the line of reasoning indicated above.

8. For the reasons recorded above, the writ petition shall stand allowed. The orders dated 5.6.2003 (Annexure P6) and 8.9.2003 (Annexure P9) passed by respondents declining petitioner's plea for entitlement to ex-gratia amount of Rs.50,000/- in terms of Rule 6 of Policy Instructions (Annexure P3) are quashed. The respondents are directed to pay a sum of Rs.50,000/- to the petitioner as ex-gratia grant in terms of Rule 6 contained in Annexure P3.

(S. D. ANAND)
JUDGE

(J. S. KHEHAR)
JUDGE

November 9, 2006
SRM